

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DERRICK RANKINE,

Plaintiff,

v.

RAYMOND SOBINA, et al.,

Defendants.

Civil Action No. 03-313 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on October 1, 2003, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 106], filed on May 10, 2006, recommended that the motion to dismiss or for a more definite statement filed by Defendants Members of the PRC, Sobina, McNelis, Hughes, Troyan, Mailman, Heckman, Herdman, Castania, Cross, Bertolino, Simosko, Munion, Prince, Chapley, Fey, Lucas, Heiss, Huber, Kromell, Stayer, Delosh, Wilson, Joseph and Mulligan [Doc. No. 69] be granted in part and denied in part. The Magistrate Judge recommended that the motion should be granted in that the additional Defendants named in the amended complaints [Doc. Nos. 6 and 33] should be dismissed due to Plaintiff's continued failure to serve them in accordance with the Federal Rules of Civil Procedure, and be denied in all other respects.

It was further recommended that the motion to dismiss filed by Defendants Sobina, McNelis, Hughes, Troyan, Mailman, Heckman, Herdman, Castania, Cross, Bertolino, Simosko, Munion, Prince, Chapley, Fey, Lucas, Heiss, Huber, Kromell, Stayer, Delosh, Wilson, Joseph and Mulligan [Doc. No. 73] be dismissed as inappropriate. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the petition and documents in the case,

together with the Report and Recommendation, the following order is entered:

AND NOW, this 20th day of June, 2006;

IT IS HEREBY ORDERED that the motion to dismiss or for a more definite statement filed by Defendants Members of the PRC, Sobina, McNelis, Hughes, Troyan, Mailman, Heckman, Herdman, Castania, Cross, Bertolino, Simosko, Munion, Prince, Chapley, Fey, Lucas, Heiss, Huber, Kromell, Stayer, Delosh, Wilson, Joseph and Mulligan [Doc. No. 69] is GRANTED in part in that the additional Defendants named in the amended complaints [Doc. Nos. 6 and 33] are DISMISSED due to Plaintiff's continued failure to serve them in accordance with the Federal Rules of Civil Procedure; and is DENIED in all other respects.

IT IS FURTHER ORDERED that the motion to dismiss filed by Defendants Sobina, McNelis, Hughes, Troyan, Mailman, Heckman, Herdman, Castania, Cross, Bertolino, Simosko, Munion, Prince, Chapley, Fey, Lucas, Heiss, Huber, Kromell, Stayer, Delosh, Wilson, Joseph and Mulligan [Doc. No. 73] is DISMISSED as inappropriate.

The Report and Recommendation [Doc. No. 106] of Magistrate Judge Baxter, filed on May 10, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge